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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,713	03/08/2001	Klaus Krinner	F-6818	7592

7590

04/08/2003

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,713

Applicant(s)

KRINNER ET AL.

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2002 and 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-42 is/are pending in the application.
- 4a) Of the above claim(s) 20-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 13 September 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other: _____

DETAILED ACTION

1. This is the third office action for application serial number 09/762,713, Device for Fastening Poles, Posts, Masts Or The Like in The Ground and Method For Manufacturing a Fastening Device, filed on 3/08/01. This application contains 23 claims numbered 20-42.
2. Applicant's election without traverse of Group I, claims 33-42 in Paper No. 11 is acknowledged.
3. Claims 20-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Specification

4. The substitute specification filed 9/13/02 has been entered.

Drawings

5. The proposed drawing correction filed on 9/13/02 has been approved.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-35, 38-39 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,457,918 to Plourde in view of US Patent No. 4,852,380 to Haldric et al.

Regarding claims 33-35, Plourde discloses an anchoring device (Fig. 4) which comprises a basic body (10) having an anchoring portion (14, 18) and a holding portion (20, 22, 30, 32E) for receiving an object; the anchoring portion having a first portion (18) and a second portion (14) being formed from one piece; the first portion being cone-shaped with a first cone angle, the second portion being coned-shaped with a second angle different from the first cone angle; threads (52) extended substantially over the entire length of the anchoring portion for screwing the anchoring portion into the ground; and the holding portion and anchoring portion are substantially hollow.

Plourde teaches forming a basic body by manufacturing machine, but does not teach forming the basic body by hammering of a cylindrical tube.

Haldric teaches that it was known in the art to have formed a basic body by hammering of a cylindrical tube.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the technique of Lesar by implementing the technique of Haldric which forms a basic body by hammering of a cylindrical tube so as to impart the tube in a particular configuration without the use of a complex machine. Nonetheless, the use of hammering a tube to form a basic shape is conventional and well known and to use such in a same intended purpose would have also been an obvious matter of design choice.

Regarding claims 38-39, Plourde as modified also discloses the anchoring portion and the holding portion are one piece and the anchoring portion being attached to the holding portion.

Regarding claims 40 and 42, Plourde as modified also discloses the anchoring portion having a tip (38); and the difference between the first cone angle and the second cone angle is in the range between 1 and 3 degrees.

Claims 35- 39, 40 and 42 are also rejected under 35 U.S.C. 103(a)) as being unpatentable over US Patent No. 5,524,855 to Lesar in view of US Patent No. 4,852,380 to Haldric et al.

Regarding claim 35, Lesar discloses an anchoring device (Figs. 4-7) which comprises a basic body having an anchoring portion (24, 34, 36); the anchoring portion having a first portion (22) and a second portion (10, 12, 34, 36) being formed from one piece; the first portion being cone-shaped with a first cone angle, the second portion being coned-shaped with a second angle different from the first cone angle; the basic body also having a holding portion (24); and the holding portion and anchoring portion are substantially hollow.

Lesar teaches forming a basic body by manufacturing machine, but does not teach forming the basic body by hammering of a cylindrical tube.

Haldric teaches that it was known in the art to have formed a basic body by hammering of a cylindrical tube.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Lesar by implementing the technique of Haldric which forms a basic body by hammering of a cylindrical tube so as to impart the tube in a particular configuration without the use of a complex machine. Nonetheless, the use

of hammering a tube to form a basic shape is conventional and well known and to use such in a same intended purpose would have also been an obvious matter of design choice.

Regarding claims 36-39, Lesar as modified also discloses at least 3 or four fins structures (20, Fig. 4) attached to the basic body in an equiangularly spaced manner; and the anchoring portion and the holding portion are one piece.

Regarding claim 40, Lesar as modified also does not disclose the difference between the first cone angle and the second cone angle being between 1 and 3 degrees. However, it would have been an obvious matter of the design choice to make the cone angles between 1 and 3 degrees, since one skilled in the art can make a variety of different angles if so desired.

Regarding claim 42, Lesar also discloses the anchoring portion having a tip (38).

Claim 41 is rejected under 35 U.S.C. 103(a)) as being unpatentable Plourde in view of DE Patent No. 19637985 to Gerhard (IDS).

Unlike Plourde, Gerhard provides a bore (not numeral) (Figs. 1 & 3) extending through the anchoring portion so that water disposed therein may consequently exit from the bore in the anchoring portion of the basic body.

It would have been obvious to have provided a bore through the anchoring portion of the basic body as taught by Gerhard in order to allow water disposed therein may consequently exit from the bore in the anchoring portion of the basic body. Notwithstanding, it would have been an obvious matter of design choice to make a hole through the anchoring portion, since applicant has not disclosed that a hole/bore solves any stated problem or is for any particular purpose and it appears that the invention

would perform equally well with the hole/bore formed through any portion of the basic body other than the anchoring portion.

Claim 41 is also rejected under 35 U.S.C. 103(a)) as being unpatentable Lesar in view of US Patent No. 5,881,495 to Clark.

Unlike Lesar, Clark provides a bore (56) (Fig. 6) extending through the anchoring portion so that water disposed therein exit from the bore in the anchoring portion of the basic body.

It would have been obvious to have provided a bore through the anchoring portion of the basic body as taught by Clark in order to allow water exit from the bore in the anchoring portion of the basic body. Notwithstanding, it would have been an obvious matter of design choice to make a bore or hole through the anchoring portion, since applicant has not disclosed that a hole/bore solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the hole/bore formed through any portion of the basic body other than the anchoring portion.

Response to Arguments

7. Applicant's arguments filed 9/13/02 with respect to the references of Plourde and Lesar have been fully considered and are persuasive. The rejection based on Plourde and Lesar has, therefore been withdrawn. However, upon further consideration, a new ground of rejection is made in view of a new found reference.

Conclusion

8. **THIS ACTION IS MADE NON-FINAL.**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,494,643 to Turner

Turner discloses a fastening system with an anchoring device.

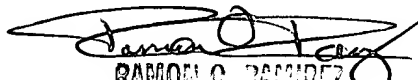
10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Monday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.



Tan Le
Patent Examiner
AU 3632
March 25, 2003.



RAMON C. RAMIREZ
PRIMARY EXAMINER
ART UNIT 3553632